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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

Branch et al.

Serial No. 09/870,023

Filed: May 30, 2001.

INTERBODY FUSION GRAFTS  
AND INSTRUMENTATION

)  
) Examiner  
) Philogene  
)  
) Group Art Unit  
) 3731  
)  
)

I hereby certify that this correspondence is  
being deposited with the United States Postal  
Service as **first class mail** in an envelope  
addressed to the Commissioner for Patents,  
PO Box 1450, Alexandria, VA 22313-1450.

December 1 2004

(Date of Deposit)

James B. Myers

Name of Registered Representative

James B. Myers  
Signature

**PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED  
PRIORITY CLAIM SUBMITTED UNDER 37 CFR §1.78(a)(3)**

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Sir:

The undersigned petitions the Commissioner to accept the priority claim listed below. A Response to an Office Communication is filed concurrent with this Petition, which Response requests that the below statement be entered on the first page of the Specification.

The present application claims priority to and is a divisional of United States Patent Application Serial No. 09/698,623 filed on October 27, 2000, now United States Patent No 6,610,065; and is also a divisional of United States Patent Application Serial No. 09/181,353 filed on October 28, 1998, now United States Patent No 6,174,311; and is a Continuation-in-Part of pending United States Patent Application Serial No. 09/701,933, filed on August 20, 2001, which is the national stage of International Application No. PCT/US98/17769, filed on August 27, 1998, published as WO 99/09914.

The undersigned further states that the entire delay between the date the claim was due under 37 CFR §1.78 (a)(2)(ii) and the date the claim was filed was unintentional.

The Commissioner is hereby authorized to charge the required petition fee pursuant to 37

CRF §1.17(t) to the American Express account number shown on the attached form (PTO-2038).

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In addition, the Examiner is invited to telephone the undersigned attorney if there are any questions about this submission or other formal matters, which may be addressed in that fashion to facilitate allowance of this application.

Respectfully submitted,

By: James B. Myers  
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